

Assembly Bill No. 1333

Passed the Assembly August 12, 2008

Chief Clerk of the Assembly

Passed the Senate July 7, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 2924.9 to the Civil Code, and to amend, repeal, and add Section 12811.1 of the Public Utilities Code, relating to utility charges.

LEGISLATIVE COUNSEL'S DIGEST

AB 1333, Hancock. Payment of utility charges.

Existing law regulates the process of foreclosing on real property subject to a mortgage or deed of trust.

This bill would require a legal owner of real property to pay a utility service provider for a utility service provided to the property or its tenants following a foreclosure where the legal owner acquires the property by judicial or nonjudicial sale or purchases the property at a foreclosure sale, the property is residential rental property, and the tenant or tenants pay the landlord for a utility service and are not direct customers of the utility service provider. The bill would require a mortgagee or beneficiary that collects utility charges from a tenant for utility service while foreclosure proceedings are pending, pursuant to an assignment of rents provision in a mortgage agreement, to pay the utility service provider for the utility services for which charges were collected from the tenant.

The existing Municipal Utility District Act authorizes the formation of a municipal utility district. The act authorizes a district to acquire, construct, own, operate, control, or use works for supplying the inhabitants of the district and public agencies with light, water, power, heat, transportation, telephone service, or other means of communication, or means for the collection, treatment, or disposition of garbage, sewage, or refuse matter. The act provides that accounts of a municipal utility district that are delinquent become a lien on the property to which services were rendered, with the force, effect, and priority of a judgment lien, when a certificate to this effect is filed for recordation with the county recorder, but exempts from that provision delinquent fees or charges for the furnishing of water or sewer service to residential property or electrical service.

This bill would delete the exemption for delinquent fees or charges for the furnishing of water or sewer service to residential property. The bill would require a district that places a lien on a property for water or sewer service to submit to the Assembly and Senate Committees on Judiciary, on or before January 1, 2013, a report containing specified information regarding the liens. The bill would repeal these provisions on January 1, 2014.

The people of the State of California do enact as follows:

SECTION 1. Section 2924.9 is added to the Civil Code, to read:

2924.9. (a) A legal owner of real property shall pay the utility service provider for the utility service provided to a property or its tenants following a foreclosure if all of the following are true:

(1) The legal owner acquires the real property by judicial or nonjudicial foreclosure or purchases the real property at a foreclosure sale.

(2) The property is residential rental property.

(3) The tenant or tenants pay the landlord for a utility service and are not direct customers of the utility service provider.

(b) A mortgagee or beneficiary that collects utility charges from a tenant for utility service while foreclosure proceedings are pending, pursuant to an assignment of rents provision in a mortgage agreement, shall pay the utility service provider for the utility services for which charges were collected from the tenant.

SEC. 2. Section 12811.1 of the Public Utilities Code is amended to read:

12811.1. (a) A district may, by resolution or ordinance, require the owner of record of real property within the district to pay the fees, tolls, rates, rentals, or other charges for services rendered to a lessee, tenant, or subtenant, and those fees, tolls, rates, rentals, and other charges that have become delinquent, together with interest and penalties thereon, are a lien on the property when a certificate is filed in the office of the county recorder pursuant to subdivision (b) and the lien has the force, effect, and priority of a judgment lien. No lien may be created under this section on any publicly owned property.

(b) A lien under this section attaches when the district files for recordation in the office of the county recorder a certificate

specifying the amount of the delinquent fees, tolls, rates, rentals, or other charges together with interest and penalties thereon; the name of the owner of record of the property to which services were rendered by the district; and the legal description of the property. Within 30 days of receipt of payment of all amounts due, including recordation fees paid by the district, the district shall file for recordation a release of the lien.

(c) In filing any instrument for recordation under this section, the district shall pay the fees specified in Sections 27361 and 27361.4 of the Government Code.

(d) The remedies in this section are in addition to any other remedy provided by law.

(e) This section does not apply to delinquent fees or charges for the furnishing of electrical service.

(f) Any district that places a lien on a property for water or sewer service pursuant to this section shall submit to the Assembly and Senate Committees on Judiciary, on or before January 1, 2013, a report containing all of the following information:

(1) The total number of liens created under this section for water or sewer service and the total dollar amount of those liens.

(2) The overall effectiveness of the liens and any problems associated with the use of those liens.

(g) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 3. Section 12811.1 is added to the Public Utilities Code, to read:

12811.1. (a) A district may, by resolution or ordinance, require the owner of record of real property within the district to pay the fees, tolls, rates, rentals, or other charges for services rendered to a lessee, tenant, or subtenant, and those fees, tolls, rates, rentals, and other charges that have become delinquent, together with interest and penalties thereon, are a lien on the property when a certificate is filed in the office of the county recorder pursuant to subdivision (b) and the lien has the force, effect, and priority of a judgment lien. No lien may be created under this section on any publicly owned property.

(b) A lien under this section attaches when the district files for recordation in the office of the county recorder a certificate specifying the amount of the delinquent fees, tolls, rates, rentals,

or other charges together with interest and penalties thereon; the name of the owner of record of the property to which services were rendered by the district; and the legal description of the property. Within 30 days of receipt of payment of all amounts due, including recordation fees paid by the district, the district shall file for recordation a release of the lien.

(c) In filing any instrument for recordation under this section, the district shall pay the fees specified in Sections 27361 and 27361.4 of the Government Code.

(d) The remedies in this section are in addition to any other remedy provided by law.

(e) This section does not apply to delinquent fees or charges for the furnishing of water or sewer service to residential property or electrical service.

(f) This section shall become operative on January 1, 2014.

Approved _____, 2008

Governor